

**NOTICE OF PUBLIC HEARING
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

NO. R9-2008-0033
ISSUED TO

Ametek Inc.
Former Ametek/Ketema Aerospace Manufacturing Facility
790 Greenfield Drive, El Cajon, California

San Diego County

NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE REGIONAL BOARD ON FEBRUARY 11, 2009¹

Background

The Surface Waters Branch Chief has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code section 13323 (CWC) against Ametek Inc. (Discharger) alleging that it has violated Cleanup and Abatement Order (CAO) No. R9-2002-201 by failing to report as required under Directive No. 1 by properly complying with Directive 1e. The Complaint alleges that Ametek failed to install and collect ground-water samples in accordance with Directive 1e and failed to submit a complete Delineation Report as required by Directive No. 1 of CAO R9-2002-201. The Complaint further alleges that Ametek failed to submit a complete Feasibility Study Report as required by Directive No. 3 of CAO R9-2002-201.

The ACL Complaint proposes that administrative civil liability in the amount of two million two hundred sixty-nine thousand dollars (\$2,269,000) be imposed as authorized by CWC section(s) 13350(e). Unless the Discharger waives its right to a hearing and pays the proposed liability, a hearing will be held before the Regional Water Quality Control Board San Diego Region (Regional Board) during its meeting of February 11, 2009, in San Diego.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Regional Board will consider whether to adopt an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability.

The public hearing on February 11, 2009, will commence as announced in our Regional Board meeting agenda. The meeting will be held at the Regional Board

¹ The board meeting schedule for 2009 has not been finalized but the February meeting is tentatively scheduled for February 11. Parties will be notified of any change in hearing date at least 30 days before a new hearing date.

Office at 9174 Sky Park Court, Suite 100, in San Diego. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Board's web page at: www.waterboards.ca.gov/sandiego.

Hearing Procedures

The hearing will be conducted in accordance with this hearing notice. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations (CCR), section 648 et seq., and is available at http://www.waterboards.ca.gov/laws_regulations or upon request. In accordance with section 648, subdivision (d), any procedure not provided by this Hearing Notice is deemed waived. Except as provided in section 648, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with section 11500 of the Government Code) does not apply to this hearing. **THIS NOTICE MAY BE AMENDED BY THE ADVISORY TEAM IN ITS DISCRETION. FAILURE TO COMPLY WITH THE PROCEDURES AND DEADLINES CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.**

Hearing Participation

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) San Diego Regional Water Board Prosecution Team
- (2) Ametek Inc., referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5 p.m. on **November 24, 2008**, to Catherine George Hagan, Senior Staff Counsel, at the address set forth below. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated

parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on **December 9, 2008**. The parties will be notified by 5 p.m. on **December 19, 2008**, as to whether the request has been granted or denied.

Primary Contacts

Advisory Team:

Catherine George Hagan
Senior Staff Counsel
Office of Chief Counsel
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Discharger:

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Tom Deeney
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Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: Catherine George Hagan, San Diego Regional Board Attorney, John Robertus, Executive Officer, Michael McCann, Assistant Executive Officer, and Craig Carlisle, Senior Engineering Geologist. Members of the Prosecution Team are: Jorge Leon, Senior Staff Counsel, State Water Board Office of Enforcement, David Barker, Supervising Water Resource Control Engineer, Julie Chan, Supervising Engineering Geologist, John Anderson, Senior Engineering Geologist, Laurie Walsh, Water Resource Control Engineer, Frank Melbourn, PE, Water Resource Control Engineer and Jeremy Haas, Environmental Scientist. Any members of the Advisory Team who normally

supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional board in this proceeding. Members of the Prosecution Team have not had any *ex parte* communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Team or members of the Regional Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested persons themselves are not *ex parte* contacts.

Hearing Time limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined 60 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team (directed to Catherine Hagan) no later than ten days after all of the evidence has been submitted. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board chair (at the hearing) upon a showing that additional time is necessary.

Evidence, Exhibits and Policy Statements

The following information must be submitted in advance of the hearing in accordance with the deadlines in this hearing notice:

1. All written evidence and exhibits that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as

long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, section 648.3.

2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. (Discharger only) If the Discharger would like to propose a Supplemental Environmental Project or Compliance Project in lieu of paying some or all of the proposed liability in accordance with the State Water Board's Water Quality Enforcement Policy, a detailed proposal including a specific implementation timetable.

The Prosecution Team shall submit 15 copies and one electronic copy of the information to Craig Carlisle no later than 5 p.m. on **December 19, 2009**.

The remaining designated parties shall submit 15 hard copies and one electronic copy of the information to Craig Carlisle no later than 5 p.m. on **January 12, 2009**.

In addition to the foregoing, each designated party shall send (1) one copy of the above information to each of the other designated parties by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than 5 p.m. on **January 28, 2009**. Interested persons must submit one copy of any written non-evidentiary policy statement. Interested persons do not need to submit written statements in order to speak at the hearing.

In accordance with Title 23, CCR, section 684.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing notice. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team at or before the hearing for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code section 13228.15. As specified in section 13228.15, a prehearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference and must be submitted to the Advisory Team, with copy to all other designated parties, as early as practicable. Such a conference may or may not be scheduled at the discretion of the Advisory Staff.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection by 5 p.m. on **January 21, 2009** to the Advisory Staff with copy to all other designated parties. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File


The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 9174 Sky Park Court, San Diego California 92123. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at <http://www.waterboards.ca.gov/>. Although the web page is updated regularly, to assure access to the latest information, you may contact Laurie Walsh at (858) 467-2970 or lwalsh@waterboards.ca.gov.

Questions

Questions concerning this proceeding may be addressed to Catherine George Hagan, Senior Staff Counsel, Regional Water Quality Control Board, San Diego Region, 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4353; telephone (858) 467-2958; e-mail chagan@waterboards.ca.gov.

IMPORTANT DEADLINES²

October 7, 2008	ACL Complaint issued to Discharger and Prosecution Team Sends draft Hearing Notice to Discharger and Advisory Team.
October 17, 2008	Comments due on draft Hearing Notice
November 7, 2008	Advisory Team issues Hearing Notice
November 24, 2008	Deadline for submission of request for designated party status.
December 9, 2008	Deadline for opposition to request for designated party status.
December 19, 2008	Advisory Team issues decision on requests for designated party status, if any.
December 19, 2008	Prosecution Team deadline for submission of evidence, exhibits, written testimony (if any) and witness lists.
January 12, 2009	Remaining Designated Parties' deadline for submission of evidence, exhibits, written testimony (if any) and witness lists.
January 21, 2009	Deadline for submission of rebuttal evidence (if any) and evidentiary objections
January 28, 2009	Deadline for submission by interested persons of non-evidentiary policy statements.
February 11, 2009	Regional Board Hearing Date



Executive Officer

7 Nov, 2008
(Date)

² The Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). On October 28, 2008, the Discharger waived its right to a hearing within 90 days of the issuance of the Complaint.